

Senate File 2309 - Reprinted

SENATE FILE 2309
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3126)

(As Amended and Passed by the Senate March 9, 2022)

A BILL FOR

1 An Act relating to milk and associated products, by providing
2 for certain items relating to milk to be transferred
3 directly to individuals by milk producers owning or
4 operating certain dairy farms, providing for the labeling
5 of raw milk and associated products, and making penalties
6 applicable.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 137D.2A Raw milk, raw milk
2 products, and raw milk dairy products.

3 A home bakery shall not advertise for sale, offer for sale,
4 sell or otherwise distribute, or use raw milk, a raw milk
5 product, or a raw milk dairy product as provided in section
6 192.145.

7 Sec. 2. Section 137F.1, subsection 8, Code 2022, is amended
8 by adding the following new paragraph:

9 NEW PARAGRAPH. o. (1) The premises of a raw milk dairy
10 where raw milk is produced, processed, labeled, marketed, or
11 distributed by a raw milk producer in compliance with section
12 192.145.

13 (2) The premises of a raw milk dairy where a raw milk
14 product or a raw milk dairy product is manufactured, labeled,
15 marketed, or distributed by a raw milk producer in compliance
16 with section 192.145.

17 Sec. 3. Section 137F.1, subsection 9, Code 2022, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. d. (1) The premises of a raw milk dairy
20 where raw milk is produced, processed, labeled, marketed, or
21 distributed by a raw milk producer in compliance with section
22 192.145.

23 (2) A premises of a raw milk dairy where a raw milk product
24 or raw milk dairy product is manufactured, labeled, marketed,
25 or distributed by a raw milk producer in compliance with
26 section 192.145.

27 Sec. 4. NEW SECTION. 137F.8B Raw milk, raw milk products,
28 and raw milk dairy products.

29 A food establishment or farmers market shall not advertise
30 for sale, offer for sale, sell or otherwise distribute, or use
31 raw milk, a raw milk product, or a raw milk dairy product,
32 regardless of whether the food establishment or farmers market
33 is regulated by the department under this chapter or another
34 chapter, another state agency, or a municipality.

35 Sec. 5. Section 159.6, subsection 6, Code 2022, is amended

1 to read as follows:

2 6. Regulation and inspection of foods, drugs, and other
3 articles, as provided in Title V, subtitle 4, ~~but~~. However,
4 chapter 205 ~~of that subtitle~~ shall be enforced as provided in
5 that chapter. Except as expressly authorized in subtitle 4,
6 the department shall not regulate any of the following:

7 a. The production, processing, labeling, marketing, or
8 distribution of raw milk by a raw milk producer in compliance
9 with section 192.145.

10 b. The manufacture, labeling, marketing, or distribution
11 of a raw milk product or raw milk dairy product by a raw milk
12 producer in compliance with section 192.145.

13 Sec. 6. Section 191.2, subsection 5, Code 2022, is amended
14 to read as follows:

15 5. ~~All bottles, containers, and packages~~ Bottles,
16 containers, and packages. Except as provided in subsection
17 5A, a container or package enclosing milk or a milk products
18 product shall be conspicuously labeled or marked with all of
19 the following:

20 a. The name of the contents as given in the definitions of
21 this chapter and chapters 190 and 192.

22 b. The word "reconstituted" or "recombined" if the product
23 is made by reconstitution or recombination.

24 c. The grade of the contents.

25 d. The word "pasteurized" if the contents are pasteurized
26 and the identity of. The package or container shall identify
27 the plant where the milk or milk product is pasteurized.

28 ~~e. The word "raw" if the contents are raw and the name or~~
29 ~~other identity of the producer.~~

30 ~~f.~~ e. The designation vitamin "D" and the number of
31 U.S.P. units per quart in the case of vitamin "D" milk or milk
32 products.

33 ~~g.~~ f. The volume or proportion of water to be added for
34 recombining in the case of concentrated milk or milk products.

35 ~~h.~~ g. The words "nonfat milk solids added" and the

1 percentage added if such solids have been added, except that
2 this requirement shall not apply to reconstituted or recombined
3 milk and milk products.

4 ~~i.~~ h. The words "artificially sweetened" in the name if
5 nonnutritive or artificial sweeteners or both are used.

6 ~~j.~~ i. The common name of stabilizers, distillates, and
7 ingredients, provided that:

8 (1) Only the identity of the milk producer shall be required
9 on cans delivered to a milk plant as provided in [chapter 192](#)
10 which receives only grade "A" raw milk for pasteurization, and
11 which immediately dumps, washes, and returns the cans to the
12 milk producer.

13 (2) The identity of both milk producer and the grade shall
14 be required on cans delivered to a milk plant as provided
15 in [chapter 192](#) which receives both grade "A" raw milk for
16 pasteurization and ungraded raw milk and which immediately
17 dumps, washes, and returns the cans to the milk producer.

18 (3) In the case of concentrated milk products, the specific
19 name of the product shall be substituted for the generic term
20 "concentrated milk products", e.g., "homogenized concentrated
21 milk", "concentrated skim milk", "concentrated chocolate milk",
22 "concentrated chocolate flavored low fat milk".

23 (4) In the case of flavored milk or flavored reconstituted
24 milk, the name of the principal flavor shall be substituted for
25 the word "flavored".

26 (5) In the case of cultured milk and milk products,
27 the special type culture used may be substituted for the
28 word "cultured", e.g., "acidophilus buttermilk", "Bulgarian
29 buttermilk", and "yogurt".

30 Sec. 7. Section 191.2, Code 2022, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 5A. *Raw milk, raw milk products, and raw*
33 *milk dairy products.* A container holding raw milk, a raw
34 milk product, or a raw milk dairy product sold by a raw milk
35 producer shall be labeled as required in section 191.9A.

1 Sec. 8. NEW SECTION. 191.9A Raw milk dairies — sale of raw
2 milk, raw milk products, and raw milk dairy products.

3 1. A raw milk producer who sells raw milk, a raw milk
4 product, or a raw milk dairy product to an individual in
5 compliance with section 192.145 shall label the container
6 holding the raw milk, raw milk product, or raw milk dairy
7 product. The label shall be permanently affixed to the
8 container. The words on the label shall be printed using upper
9 case letters in at least twelve point boldface type. If the
10 container includes a main informational or advertising panel,
11 the label shall be part of the panel.

12 2. a. For a container holding raw milk, the label shall
13 state the following:

14 Notice to Consumers

15 This container holds raw milk not subject to state inspection
16 or other public health regulations that require pasteurization
17 and grading.

18 b. For a container holding a raw milk product or raw milk
19 dairy product, the label shall state the following:

20 Notice to Consumers

21 This container holds a raw milk product or raw milk dairy
22 product that is not subject to state inspection or other public
23 health regulations that require pasteurization and grading.

24 Sec. 9. Section 192.103, subsections 1 and 2, Code 2022, are
25 amended to read as follows:

26 1. Only grade "A" pasteurized milk and milk products
27 shall be sold to the final consumer, or to restaurants, soda
28 fountains, grocery stores, or similar establishments. ~~However,~~
29 ~~in an~~ except as follows:

30 a. In an emergency, the sale of pasteurized milk and milk
31 products which have not been graded, or the grade of which is
32 unknown, may be authorized by the secretary, in which case,
33 such products shall be labeled "ungraded".

34 b. A raw milk producer may sell raw milk, a raw milk
35 product, or a raw milk dairy product to an individual in

1 compliance with section 192.145.

2 2. ~~No~~ A person shall not within the state produce, provide,
3 sell, offer, or expose for sale, or have in possession with
4 intent to sell, any milk or milk product which is adulterated
5 or misbranded. However, in an emergency, the sale of
6 pasteurized milk and milk products which have not been graded,
7 or the grade of which is unknown, may be authorized by the
8 secretary, in which case such products shall be labeled
9 "ungraded".

10 Sec. 10. NEW SECTION. 192.144 **Definitions.**

11 As used in this subchapter, unless the context otherwise
12 requires:

13 1. "*Dairy animal*" means a cow, goat, or sheep that is
14 actively producing milk.

15 2. "*Dairy product*" means a product, other than a milk
16 product, in which milk is the principal ingredient at any
17 temperature and in either a manufactured or unmanufactured
18 state. To the extent that it is not classified as a milk
19 product, a dairy product includes but is not limited to butter,
20 cheese, cream, cottage cheese, ricotta cheese, kefir, or ice
21 cream.

22 3. "*Manufacture*" means to convert or condition personal
23 property by changing the form, composition, quality, or
24 character of a product, and includes activities associated with
25 a creamery or cheese factory.

26 4. "*Raw milk*" means milk that is not pasteurized or graded.

27 5. "*Raw milk dairy*" means an operation where not more than
28 a total of ten dairy animals are maintained, and milk produced
29 from any of those animals is not pasteurized or graded.

30 6. "*Raw milk dairy product*" means a dairy product that
31 includes raw milk or a raw milk product.

32 7. "*Raw milk producer*" means a person who owns or operates
33 a raw milk dairy.

34 8. "*Raw milk product*" means a milk product that includes raw
35 milk.

1 Sec. 11. NEW SECTION. 192.145 Raw milk dairies —
2 production, processing, marketing, and distribution.

3 1. A raw milk producer may elect to process, market,
4 or distribute raw milk produced at the raw milk producer's
5 raw milk dairy in compliance with this section. A raw milk
6 producer may also elect to use the raw milk to manufacture,
7 market, or distribute a raw milk product or raw milk dairy
8 product at the raw milk producer's raw milk dairy in compliance
9 with this section. If a raw milk producer makes either
10 election, all of the following apply:

11 a. The raw milk producer shall not pasteurize or grade milk
12 produced from dairy animals maintained at the raw milk dairy.

13 b. The raw milk producer shall ensure the health and safety
14 of consumers of the raw milk produced from dairy animals
15 maintained at the raw milk dairy by doing all of the following:

16 (1) Each month, test each dairy animal to determine a
17 coliform count and standard plate count. The raw milk producer
18 shall maintain a record of each test. The raw milk producer
19 shall retain the record at the raw milk dairy for at least
20 three years.

21 (2) Each twelve-month period, employ a licensed
22 veterinarian to examine each dairy animal to determine the
23 dairy animal's health status. The examination must at least
24 include a blood test for common diseases afflicting the type
25 of dairy animal being examined.

26 2. A raw milk producer shall only take an order for the
27 distribution of raw milk at the raw milk producer's raw milk
28 dairy where the raw milk was produced. The raw milk producer
29 shall only distribute the raw milk to an individual placing the
30 order. The raw milk producer may distribute the raw milk to
31 the individual without charge or on a retail basis.

32 a. The raw milk producer shall post the summary of the test
33 to determine the coliform count and standard plate count of
34 the dairy animals maintained at the raw milk dairy as provided
35 in subsection 1. The summary shall be posted at the raw milk

1 dairy's distribution point for the raw milk. The individual
2 being distributed the raw milk may examine the records for the
3 three-year period that the records are required to be retained
4 by the raw milk producer under subsection 1.

5 *b.* If the raw milk producer sells raw milk in a container,
6 the container shall be labeled as provided in section 191.9A.

7 *c.* The raw milk producer shall distribute the raw milk
8 directly to the individual at the raw milk dairy or to a
9 location specified by the individual. However, a person shall
10 not deliver the raw milk to a place of business where food
11 items are distributed on a retail basis, including but not
12 limited to a home bakery regulated under chapter 137D or a
13 food establishment or farmers market regulated under chapter
14 137F. The raw milk shall only be used for consumption by the
15 individual, members of the individual's household, and the
16 individual's nonpaying guests or nonpaying employees.

17 *d.* A person shall not resell raw milk.

18 3. A raw milk producer shall only take an order for the
19 distribution of a raw milk product or raw milk dairy product
20 at the raw milk producer's raw milk dairy where the raw milk
21 product or raw milk dairy product is manufactured. The raw
22 milk producer shall only distribute the raw milk product or raw
23 milk dairy product to an individual placing the order. The raw
24 milk producer may distribute the raw milk product or raw milk
25 dairy product to the individual without charge or on a retail
26 basis.

27 *a.* The raw milk producer shall post the summary of the most
28 recent test to determine the coliform count and standard plate
29 count of dairy animals maintained at the raw milk dairy as
30 provided in subsection 1. The summary shall be posted at the
31 raw milk dairy's distribution point for the raw milk products
32 or raw milk dairy products. The individual being distributed
33 the raw milk product or raw milk dairy product may examine the
34 records for the three-year period that the records are required
35 to be retained by the raw milk producer under subsection 1.

1 *b.* If the raw milk producer sells a raw milk product or
2 raw milk dairy product in a container, the container shall be
3 labeled as provided in section 191.9A.

4 *c.* The raw milk producer shall distribute the raw milk
5 product or raw milk dairy product directly to the individual
6 at the raw milk dairy or to a location specified by the
7 individual. However, a person shall not deliver the raw milk
8 product or raw milk dairy product to a place of business where
9 food items are distributed on a retail basis, including but
10 not limited to a home bakery regulated under chapter 137D or a
11 food establishment or farmers market regulated under chapter
12 137F. The raw milk product or raw milk dairy product shall
13 only be used for consumption by the individual, members of the
14 individual's household, or the individual's nonpaying guests
15 or nonpaying employees.

16 *d.* A person shall not resell the raw milk product or raw
17 milk dairy product.

18 4. Based on an affidavit signed by a licensed physician
19 certifying that in the physician's opinion an individual
20 contracted an illness as a direct result of consuming raw milk
21 produced at a raw milk dairy, or consuming a raw milk product
22 or a raw milk dairy product manufactured at a raw milk dairy,
23 the Iowa department of public health acting under chapter 135
24 or a local board of health acting under chapter 137 may demand
25 that the raw milk producer provide it with all records of tests
26 to determine the coliform count and standard plate count of
27 dairy animals maintained at the raw milk dairy as required in
28 subsection 1.

29 5. The department shall not adopt rules to administer or
30 enforce this section.

31 6. This chapter does not apply to a receiving station,
32 transfer station, milk handler, milk grader, or milk plant. A
33 raw milk dairy is not a food establishment, food processing
34 plant, or other person regulated under chapter 137F or other
35 chapter regulating such entities.

1 Sec. 12. NEW SECTION. 194.22 Raw milk dairies —
2 production, processing, manufacturing, marketing, and
3 distribution — exceptions.

4 This chapter does not apply to any of the following:

- 5 1. The production, processing, marketing, and distribution
6 of raw milk, if the raw milk is produced by a raw milk producer
7 at a raw milk dairy in compliance with section 192.145.
- 8 2. The manufacture, marketing, and distribution of a
9 raw milk product or raw milk dairy product, if the raw milk
10 product or raw milk dairy product is manufactured by a raw
11 milk producer at a raw milk dairy in compliance with section
12 192.145.